

Entered - 11/03/03 - sb  
CL - 03L0869 LISA CARTER

CLAIM OF: LAWANDA ANDERSON,  
Through her attorney  
Fred Lerner  
2857 North Druid Hill Road, NW  
Atlanta, Georgia 30329

04-R -1537

For damages alleged to have been sustained as a result of a  
branch falling from a tree on September 27, 2003 at  
Anderson Park.

THIS ADVERSED REPORT IS  
APPROVED

BY:

JERRY L. DELOACH  
DEPUTY CITY ATTORNEY

ADVERSED BY  
CITY COUNCIL

SEP 07 2004

## ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

DATE:

CHAIR:

Jay M. Shepard

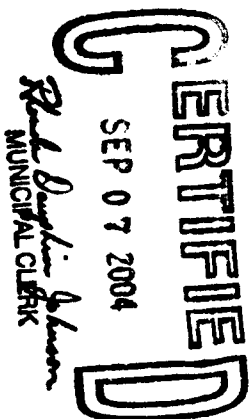
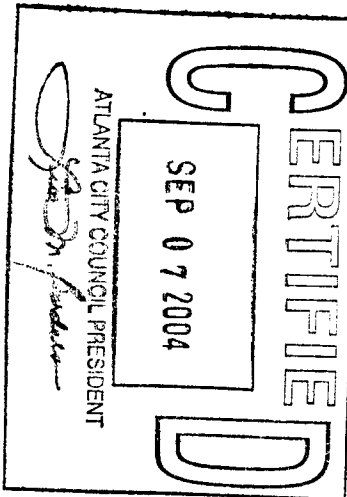
Wayne Woodward

C. T. Ward

14-1 St

Carla Smith

10-1 St



## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 03L0869

Date: August 17, 2004

Claimant /Victim LAWANDA ANDERSON

BY: (Atty) (Ins. Co.) Fred Lerner

Address: 2857 North Druid Hills Road, NE

Subrogation:            Claim for Property damage \$                                  Bodily Injury \$ 4,500.00

Date of Notice: 10/21/03 Method: Written, proper X Improper           

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 09/27/03 Place: Anderson Park

Department Parks, Recreation and Cultural Affairs Bureau: Parks Division:           

Employee involved                                  Disciplinary Action:                                 

**NATURE OF CLAIM:** The claimant alleges that she sustained injuries as a result of a branch falling from a tree at Anderson Park. However, the city was not on notice of any problems with the tree prior to the incident involving the claimant. Furthermore, the city is immune from liability as set forth in O.C.G.A. §36-33-1.

### INVESTIGATION:

Statements: City employee            Claimant            Others            Written            Oral           

Pictures            Diagrams            Reports: Police            Dept Report X Other           

Traffic citations issued: City Driver            Claimant Driver           

Citation disposition: City Driver            Claimant Driver           

### BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial           

Improper Notice            More than Six Months            Other X Damages reasonable           

City not involved            Offer rejected            Compromise settlement           

Repair/replacement by Ins. Co.            Repair/replacement by City Forces           

Claimant Negligent            City Negligent            Joint            Claim Abandoned           

Respectfully submitted,



INVESTIGATOR - LISA CARTER

### RECOMMENDATION:

Pay \$            Adverse X Account charged: 1A01            2J01            2H01           

Claims Manager:  Concur/date 08/19/04

Committee Action:                                  Council Action

Post Mark Date 10/30/03  
By DL

LAW OFFICES  
**LERNER, LERNER & ASSOCIATES**  
TOCO HILLS CENTER  
2857 NORTH DRUID HILLS ROAD, N. E.

FRED LERNER  
STEPHEN M. LERNER

**ATLANTA, GEORGIA 30329**

TEL: (404) 321-1234  
FAX: (404) 321-1389

ENTERED - 11-3-03 - SB  
03L0869 - LISA CARTER

October 17, 2003

**RECEIVED**

OCT 21 2003

**MUNICIPAL CLERK**

City Hall  
CLAIMS DEPARTMENT  
55 Trinity Avenue S.W.  
Atlanta, GA 30303

Re: Your Insured: City of Atlanta  
Our Client: Lawanda Anderson  
Date/Acc.: 9/27/03

Sir/Madam:

Please be advised that the undersigned represents the above named client in a bodily injury claim. Our client Lawanda Anderson was in Anderson Park on September 27th, when a branch fell from a tree hitting her on her leg causing injury. Ms. Anderson had to be taken to the hospital and received six stitches. To date, she has \$932.00 in medical bills. The branch that hit her was a dead branch that had rotted. The city of Atlanta was negligent in not removing the dead branch from the tree.

Kindly indicate the name of the adjuster and claim number assigned to this case. We would appreciate all correspondence regarding this claim be directed through our office.

Please let us know if there is a specific claims form for the city of Atlanta that we need to fill out, or if you need other information. We have enclosed her medical bill from the date of accident. She will be going back to the doctor to have the stitches removed.

Thank you for your cooperation.

Sincerely yours,

Fred Lerner



## OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC  
MUNICIPAL CLERK

September 14, 2004

55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30335  
(404) 330-6033  
FAX (404) 658-6103

Fred Lerner  
Attorney at Law  
2857 North Druid Hill Rd., NW  
Atlanta, Georgia 30329

04-R-1537

RE: Lawanda Anderson

Dear Attorney Lerner:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on September 07, 2004. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the City Attorney's Office/Claims Division at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

cc: Claims Division/Law Department